



A BILL FOR AN ORDINANCE

RELATING TO SPONSORSHIPS.

BE IT ORDAINED by the People of the City and County of Honolulu:

SECTION 1. Purpose. The purpose of this ordinance is to establish a process to obtain sponsorships for city facilities, parks, programs, equipment, and tangible property within set guidelines and procedures for the purpose of optimizing non-property tax revenue sources.

SECTION 2. Chapter 2, Revised Ordinances of Honolulu 1990 ("Executive Agencies—Additional Powers, Duties and Functions"), is amended by adding a new article to be appropriately designated by the revisor of ordinances and to read as follows:

"Article __. Sponsorship of City Assets

Sec. 2-___.1 Declaration of legislative intent — purpose.

In an effort to utilize and maximize the community's resources, it is in the best interest of the city to create and enhance relationships with the private sector, including individuals, corporations and other organizations, through commercial sponsorships. Sponsorship arrangements are deemed not to constitute a public forum for communication and debate. The rights established by the sponsorships are established and retained at the city's discretion. Sponsorships will create alternate revenue streams that will increase the city's ability to deliver services and to maintain city assets, including its facilities, parks, programs, equipment, and tangible property, and/or to provide enhanced levels of service and maintenance beyond the core levels funded from the city's general fund for the benefit of users and the community at large.

In appreciation of such support, it is the policy of the city to provide sponsors with suitable acknowledgement of their contribution. However, such recognition should adhere to the aesthetic values and purposes of the city's assets. In addition, such recognition should not detract from the public's experience or expectation, nor should it impair the visual qualities of the city asset or be perceived as creating a proprietary interest. Signs providing the recognition shall conform to all applicable laws, rules, and regulations.

Sec. 2-___.2 Definitions.

As used in this article, unless the context otherwise requires:



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"Cash sponsorship" means a type of sponsorship in which a sponsor provides cash.

"City asset" means a city facility, park, program, equipment, or tangible property.

"Equipment" means any vehicle, construction equipment, machine, device, gear, apparatus, or tool with a value in excess of \$25,000 used in the operation of the city.

"Facility" means any building, including any stadium, arena or station, owned, managed or operated by the city.

"Financial contribution" means cash, goods, and/or services, paid, given or provided to the city at such time or times as set forth in the sponsorship agreement.

"In-kind sponsorship" means a type of sponsorship in which a sponsor provides a good or service.

"Person" means the same as defined in Section 1-4.1.

"Program" means any program, festival, contest, event, fair, athletic race, gala or similar event provided by a department in connection with the operations of a department.

"Request for proposals" means an open competitive process whereby persons may express their interest in participating in sponsorship opportunities with the city. Requests for proposals shall include a summary of the sponsorship opportunity, benefits for participation and a description of the open and competitive procedure for expressing interest in participating in sponsorship opportunities.

"Sponsor" means a person that enters into a sponsorship agreement with the city.

"Sponsorship" means a mutually beneficial arrangement between the city and a person, wherein the person provides a financial contribution to the city in return for sponsor recognition on one or more city assets, for a specified period of time.

"Sponsorship agreement" means a written agreement executed between the city and a sponsor governing a sponsorship, on terms and conditions acceptable to the city and the sponsor.



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Sec. 2-__3 Exclusions.

This article shall not apply to:

- (a) Gifts, grants, or unsolicited donations where no sponsorship agreement exists or is required; and
- (b) Memorials and the naming of a city park, site, or facility subject to Sections 22-9.3 to 22-9.5;
- (c) Parades or events sponsored or co-sponsored by the city pursuant to Hawaii administrative rules, title 9, subtitle 2, chapter 1; and
- (d) Facilities in Kapiolani Regional Park.

Sec. 2-__4 Sponsorship policy.

The purpose of this policy and its related guidelines is to establish the criteria and parameters for granting of sponsorship opportunities in relation to city assets. This policy provides executive agencies the authority to consider and approve sponsorship opportunities for a person that has provided a financial contribution to support a city asset. All sponsorships shall comply with the guidelines established by this policy.

Sec. 2-__5 Authorization required.

- (a) City assets are intended and exclusively used for operations of the city in providing governmental services and programs to and for the public, and except as required by law or expressly established by an affirmative action by the city council, no city asset shall be intended or considered as an open, limited, or designated public forum, and no person shall have a right to access or use any city asset for any purpose other than the intended and authorized governmental purpose or service. Placement of sponsorship messages upon a city asset shall require specific authorization.
- (b) The city possesses sole and final decision-making authority for determining the appropriateness of a sponsorship relationship and reserves the right to refuse to enter into any proposed sponsorship agreement. Proposals shall be reviewed in accordance with the following guidelines:
 - (1) A director of an executive agency shall have the authority to enter into a sponsorship agreement that is for a term of less than five years and is for a financial contribution of less than \$50,000.



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- (2) All sponsorship agreements for a financial contribution of \$50,000 or more must be approved by a resolution adopted by the city council.
- (3) All sponsorship agreements that exceed a period of five years must be approved by a resolution adopted by the city council.

Sec. 2-___.6 Funds received from sponsorship agreements.

All funds received pursuant to sponsorship agreements shall be deposited into the appropriate fund as determined by the director of budget and fiscal services.

Sec. 2-___.7 Sponsorship rules and regulations.

An executive agency is authorized to adopt rules and regulations to provide for the sponsorship of city assets.

Sec. 2-___.8 Sponsorship guidelines.

- (a) The following guidelines shall apply to a sponsorship agreement:
 - (1) The city shall not relinquish any aspect of the city's right to direct, manage and control the city asset.
 - (2) Signage, publications, and publicity shall conform to all applicable laws, rules, and regulations.
 - (3) Sponsorship opportunity benefits offered by the sponsor to the city shall be commensurate with the relative value to the sponsor of the access to the potential association with the city.
 - (4) The sponsorship shall not create a conflict of interest for the city.
 - (5) The sponsorship shall not confer a personal benefit, directly or indirectly, to any particular city employee or official.
 - (6) The sponsorship shall not constitute an endorsement of the sponsor or its services and products, or create any proprietary interest of the sponsor in the city or the city assets.
 - (7) No materials, communications, or advertisements including, but not limited to, print, video, internet, broadcast, or display items developed to promote



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or communicate the sponsorship, may use the city's name, seal, or logo without express prior written approval from the city.

- (8) The sponsorship shall not discriminate against any person on the basis of race, color, creed, religion, sex, including gender identity and expression, sexual orientation, age, marital status, ancestry, national origin or disability.
- (9) Signage, branding, publicity and advertising in conjunction with the sponsorship agreement shall not contain the following:
 - (A) Obscenity;
 - (B) Pornography;
 - (C) Incitement to imminent lawless action;
 - (D) Speech presenting a grave and imminent threat;
 - (E) Fighting words;
 - (F) Fraud;
 - (G) True threats;
 - (H) Defamation (libel/slander);
 - (I) Solicitations to commit, or speech integral to, criminal conduct; or
 - (J) Promotion of drugs, alcohol, tobacco, gambling, or adult entertainment.
- (10) Sponsorships shall be non-exclusive, and the city shall retain the right to grant multiple sponsorships for the same city asset.
- (11) Sponsorship recognition benefits may include the following during the term of the agreement:
 - (A) Recognition of the sponsor for the specific city program;
 - (B) Appropriate mention in media releases and promotional materials as sponsor for the city program;



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- (C) Appropriate sponsor signage/display at the city program location;
 - (D) Appropriate recognition on the program website as a sponsor for the program; and
 - (E) Other possible benefits as negotiated.
- (12) Sponsors shall defend, indemnify and hold harmless the city, its officers, directors, agents, and employees against all liability, loss, damage, cost, and expense, including attorneys' fees, arising out of or resulting from the acts or omissions of the sponsor, its employees, officers, agents or contractors, in connection with the sponsorship and the sponsorship agreement.
 - (13) Sponsorships shall be for commercial purposes and the promotion of any non-commercial enterprise shall not be permitted in the limited forum created by this article.
 - (14) Sponsorships may be terminated in writing at any time during the term of the sponsorship agreement when, in the sole determination of the city, the sponsorship is no longer in the best interest of the city.
 - (15) The city retains its rights and discretion to exercise full editorial control over the placement, content, appearance, and wording of sponsorship signs, affiliations and messages.
 - (16) Sponsorship materials that advocate, contain price information or an indication of associated savings or value, request a response, or contain comparative or qualitative descriptions of products, services, or organizations, shall not be allowed.
- (b) The city shall not solicit or accept sponsorship from any potential sponsor that does not meet the image, values, and objectives of the city. In addition, sponsorships involving the following shall not be accepted:
 - (1) Political campaign speech, or speech that supports or opposes or appears to support or oppose a ballot measure or initiative, or refers to any person in public office;
 - (2) Religious speech that advocates or opposes a religion or religious belief;



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- (3) Entities that practice or promote discrimination based on race, color, creed, religion, sex, including gender identity and expression, sexual orientation, age, marital status, ancestry, national origin or disability;
- (4) Persons that have a pending open application with the city;
- (5) Parties opposing the city in a lawsuit; and
- (6) Any situation where the corporation counsel determines there would be a conflict of interest.

Sec. 2-___.9 Severability

The provisions of this article are declared to be severable. If any portion of this article is held invalid for any reason, the validity of any other portion of this article which may be given effect without the invalid portion shall not be affected and if the application of any portion of this article to any person, property, or circumstance is held invalid, the application of this article to any other person, property, or circumstance shall not be affected."



CITY COUNCIL
CITY AND COUNTY OF HONOLULU
HONOLULU, HAWAII

ORDINANCE _____
BILL 78 (2015)

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SECTION 3. This ordinance takes effect upon its approval.

INTRODUCED BY:

Shamberly Pae
Sam H. Kameyoshi

DATE OF INTRODUCTION:

OCT 29 2015

Honolulu, Hawaii

Councilmembers

APPROVED AS TO FORM AND LEGALITY:

Deputy Corporation Counsel

APPROVED this _____ day of _____, 20____.

KIRK CALDWELL, Mayor
City and County of Honolulu